

Message Text

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ACTION IO-13

INFO OCT-01 AF-10 ADP-00 ARA-11 EA-11 EUR-25 NEA-10 RSC-01

CIAE-00 DODE-00 PM-09 H-02 INR-10 L-03 NSAE-00 NSC-10

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R 041155 Z APR 73

FM USMISSION GENEVA

TO SECSTATE WASHDC 8639

INFO AMEMBASSY ACCRA

AMEMBASSY ADDIS ABABA

AMEMBASSY DAR ES SALAAM

AMEMBASSY LAGOS

AMEMBASSY LUSAKA

USMISSION USUN NEW YORK

UNCLAS GENEVA 1514

E. O. 11652: N/ A

TAGS: SOCI, ECOSOC

SUBJECT: HUMAN RIGHTS COMMISSION (HRC) - DRAFT CONVENTION ON
CRIME OF APARTHEID

REF: (A) GENEVA 1466 (REPEATED AFRICAN INFO POSTS)

(B) STATE 061433

1. AS INDICATED REF (A), TEXT OF DRAFT CONVENTION
ON SUPPRESSION AND PUNISHMENT OF CRIME OF APARTHEID
AS REVISED BY HRC WORKING GROUP ESSENTIALLY THE SAME
AS TEXT SUBMITTED BY GUINEA, NIGERIA AND USSR AT 27 TH GA.
REVISED TEXT ADDS DECLARATION IN FIRST ARTICLE THAT
" APARTHEID IS A CRIME AGAINST HUMANITY". ALSO, AS
NOTED REF (A), WORKING GROUP LEFT UNRESOLVED ARTICLES
ON IMPLEMENTATION. UNDER ORIGINAL THREE- POWER DRAFT
(ARTS. VI, VII AND VIII) IMPLEMENTATION WOULD BE
THROUGH REPORTING SYSTEM UNDER SUPERVISION OF COMMISSION
ON HUMAN RIGHTS. OF PARTICULAR INTEREST IS THAT
DEFINITION OF " CRIME OF APARTHEID" IN REVISED DRAFT
REMAINS OF SAME SWEEPING GENERALITY AND AMBIGUITY AS IN
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THREE- POWER DRAFT.

2. REVISED DRAFT STILL INCLUDES EXPRESS PROVISION ATTACHING INTERNATIONAL CRIMINAL RESPONSIBILITY TO ALL INDIVIDUALS, INCLUDING REPRESENTATIVES OF STATES, WHENEVER THEY COMMIT, PARTICIPATE IN, DIRECTLY INCITE OR CONSPIRE IN THE COMMISSION OF ANY ACT LISTED UNDER THE CONVENTION' S DEFINITION OF CRIME OF APARTHEID. THE CONVENTION WOULD ESTABLISH JURISDICTION OF COMPETENT TRIBUNAL OF ANY STATE PARTY TO CONVENTION TO TRY ANY PERSONS CHARGED WITH SUCH ACTS WHO MAY COME WITHIN JURISDICTION OF THE STATE PARTY.

3. DRAFT RESOLUTION (CO- SPONSORED BY BULGARIA, BYELORUSSIA, CHILE, INDIA, MAURITIUS, NIGERIA, PHILIPPINES, RUMANIA, SENEGAL, USSR, TANZANIA AND ZAIRE), ON WHICH VOTE REPORTED REF (A) WAS TAKEN, STATES (A) APPROVAL BY HRC OF THE PREAMBLE PART AND ARTICLES (EXCLUDING THOSE ON IMPLEMENTATION) ON THE DRAFT CONVENTION AS REPORTED BY WORKING GROUP AND (B) RECOMMENDS ECOSOC ADOPT RESOLUTION APPROVING DRAFT CONVENTION AND RECOMMENDING TO GA AT ITS 28 TH SESSION TO CONSIDER AND APPROVE THE DRAFT CONVENTION.

4. THERE WAS NO DEBATE ON SUBSTANCE OF DRAFT CONVENTION BEFORE VOTE REPORTED REF (A) SINCE SUBSTANTIVE DEBATE TOOK PLACE DURING SECOND WEEK OF SESSION PRIOR TO ESTABLISHMENT OF WORKING GROUP ON MARCH 8. DURING EARLIER DEBATE STRONG SUPPORT FOR DRAFT CONVENTION WAS EXPRESSED BY USSR, SENEGAL, ZAIRE, CHILE, PHILIPPINES, INDIA AND EGYPT, WITH IRAN AND TURKEY ALSO SUPPORTING IN LESS ENTHUSIASTIC TERMS. AUSTRIA, ITALY AND NETHERLANDS EXPRESSED DOUBTS MAINLY ON TECHNICAL LEGAL GROUNDS AND ECUADOR, WHILE SUPPORTING IDEA, QUESTIONED EFFECTIVENESS OF CONVENTION.

5. AT AM MEETING APRIL 2 EXPLANATION OF VOTE MADE BY USREP (HOFFMAN) WAS AS FOLLOWS:

" I DO NOT WISH TO LEAVE ANY DOUBT IN ANYONE' S MIND AS TO MY OWN-- MY DELEGATION' S-- MY GOVERNMENT' S-- ATTITUDE TOWARD APARTHEID. WE HATE AND DEPLORE IT IN EVERY FORM
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IT TAKES AND WOULD SPARE NO EFFORTS AND SUPPORT ANY AND

ALL EFFECTIVE METHODS TO ELIMINATE IT. STATEMENTS, TOO NUMEROUS TO QUOTE IN THE APPROPRIATE TIME FOR AN 'EXPLANATION OF VOTE', MADE BY OUR PRESIDENT AND SECRETARY OF STATE COULD BE ADDUCED TO THIS EFFECT.

" FOR VARIOUS AND SUNDRY REASONS WE BELIEVE THE PROPOSED CONVENTION WILL BE INEFFECTIVE. IN THE FIRST PLACE IT IS SUPERFLUOUS. WE ALREADY HAVE INTERNATIONAL LEGISLATION DIRECTED TO THIS PURPOSE-- AND IN THIS CONNECTION I NEED ONLY CALL YOUR ATTENTION TO ARTICLE 3 OF THE CONVENTION ON ELIMINATION OF RACIAL DISCRIMINATION. THIS IS AS SWEEPING AN INDICTMENT OF APARTHEID AS COULD BE IMAGINED.

" BUT EVEN IF THIS WERE NOT THE CASE, AS I INDICATED PREVIOUSLY, THE PROPOSED CONVENTION HAS TO BE INEFFECTIVE. MY NOTES SHOW THAT MANY INTERVENTIONS MADE BY THOSE WHO SUPPORTED THE DRAFT CONVENTION WHEN IT WAS PREVIOUSLY DISCUSSED PRIOR TO THE APPOINTMENT OF THE WORKING GROUP-- INCLUDING AFRICAN DELEGATIONS-- EXPRESSED SERIOUS DOUBTS ON THIS SUBJECT. THEY REFERRED TO THE IN ADEQUACY OF THE DEFINITION OF THE PROPOSED CRIME. MY NOTES INDICATE THAT I HEARD WORDS SUCH AS " AMBIGUITY", " IMPRECISE", " NON- JURIDICAL" IN THIS CONNECTION. REALLY LITTLE HAS BEEN DONE TO REMEDY THESE DEFECTS IN THE DRAFT NOW BEFORE US.

" IN ADDITION, THE FEASIBILITY OF THE IMPLEMENTATION OR ENFORCEMENT OF SUCH A CONVENTION IS OPEN TO SERIOUS DOUBT-- IF NOT RENDERED IMPOSSIBLE-- BY THE ABSENCE OF A SYSTEM OF INTERNATIONAL CRIMINAL JURISDICTION.

" MR. CHAIRMAN, I HAVE HEARD THE PROPOSED CONVENTION DESCRIBED AS " ANOTHER LANDMARK" IN THE FIGHT AGAINST APARTHEID. FOR ALL THE REASONS I HAVE STATED, IT IS AN ILLUSORY LANDMARK. IT WILL PROVE TO BE JUST ONE EXTRA INSTRUMENT OF DISAPPOINTMENT OFR THE OPPRESSED BLACKS IN AFRICA. I DO NOT AGREE WITH THE DISTINGUISHED REPRESENTATIVES OF CHILE AND INDIA TO THE EFFECT THAT THIS IS A STEP FORWARD.

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" EVERYTIME THE UN OFFERS TO THE OPPRESSED PROMISES, HOPES, THAT IT CANNOT FULFILL-- IT EXACERBATES THE IMPATIENCE OF THE OPPRESSED AND HURTS THEM RATHER THAN HELPING THEM. EVERYTIME IT DOES THINGS LIKE THIS, IT FURTHER SHAKES THEIR FAITH IN THE UN.

" IT IS BECAUSE OF THIS PRIMARILY THAT MY DELEGATION
CANNOT SUPPORT THE PROPOSED CONVENTION OR ENDORSE
ITS SUBMISSION TO OTHER BODIES WITH ANY IMPLICATION
THAT IT APPROVES IT." RIMESTAD

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